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AMY J. PATTILLO, Patent Attorney  
P.O. Box 161327 - AUSTIN, TEXAS 78716  
FAX # 512-306-0417

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Docket No. AUS92001848US1 Serial No. 10/081,024 Atty: AJP

Applicant: BROWN ET AL

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/081,024	
	Filing Date	2/21/2002	
	First Named Inventor	Michael Wayne Brown	
	Art Unit	2643	
	Examiner Name	HARRY HONG	
Total Number of Pages in This Submission	47	Attorney Docket Number	AUS920010848US1

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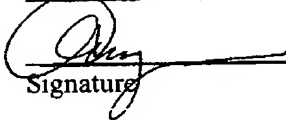
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	: Before the Examiner:
Michael Wayne Brown, et al.	: HONG, Harry S
Serial No.: 10/081,024	: Group Art Unit: 2642
Confirmation Number: 1647	: Amy J. Pattillo
Filed: 2/21/2002	: P.O. Box 161327
Title: TIME BASED REGULATION OF	: Austin, Tx 78716
ACCESS TO CALLEES	: 512-402-9820 <i>vox</i>
Docket Number: AUS920010848US1	: 512-306-0417 <i>fax</i>

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APPEAL BRIEF UNDER 37 CFR §41.37

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This Appeal Brief is submitted in support of the Appeal in the above-referenced application pursuant to a Notice of Appeal filed May 8, 2006 as required by 37 C.F.R. 41.31. This is an appeal from a final rejection dated February 13, 2006 of Claims 1-30 of application serial number 10/081,024, filed February 21, 2002.

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Atty Docket No. AUS920010848US1

**I. Real Party in Interest**

The real party in interest in the present application is the Assignee, International Business Machines Corporation of Armonk, New York, as evidenced by the Assignment set forth at Reel 012644, Frame 0728.

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## **II. Related Appeals and Interferences**

There are no Appeals or Interferences known to Appellant, Appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. No decisions have been rendered by a court or the Board in any related applications.

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**III. Status of Claims**

1. Status of All Claims in Application
  - a. Claims Rejected: 1-30
  - b. Claims Allowed or Confirmed: None
  - c. Claims Withdrawn from Consideration: None
  - d. Claims Objected to: None
  - e. Claims Cancelled: None
2. Claims on Appeal
  - a. The claims being appealed are: 1-30
  - b. The claims being appealed stand finally rejected as noted by the Examiner in the Examiner's Action dated February 13, 2006. These rejected claims which form the basis of this appeal are reproduced in the attached Appendix.

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**IV. Status of Amendments**

In a response dated September 14, 2005, Appellants amended claims 1, 3-5, 7-8, 10-12, 14-18, and 20-21. The Examiner finally rejected claims 1-30 in a final office action dated February 13, 2006. No additional amendments were filed after the final office action.

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### **V. Summary of Claimed Subject Matter**

Claim 1 is directed to a method for regulating access to a callee at a communication device accessible to the callee. (Specification, paragraphs 0033, 0155, Figure 9, element 57). In particular, a telephone service provider for a callee within a trusted telephone network detects a call initiated by a caller and intended for the callee. (Specification, paragraphs 0047, 0049, 0063, 0095, Figure 1, element 10, Figure 2, element 46). The telephone service provider detects an authenticated identity of the caller placing the call to the callee. (Specification, paragraphs 0035, 0052, 0094-0097, 0145, 0155, Figure 5, element 8). The telephone service provider only attempts a communication link between the caller and the callee if the authenticated identity of the caller is allowed access to the callee according to a schedule associated with an identity of the callee, wherein the schedule is accessible from at least one schedule storage device located within a packet-switching network outside the trusted telephone network and communicative with the telephone service provider via a secured gateway. (Specification, paragraphs 0034, 0051, 0060, 0062, 0074, 0158, 0174, Figure 2, elements 22 and 46, Figure 5, elements 82 and 86, Figure 9, elements 130 and 132).

Claim 2 is directed to the method of claim 1 wherein the authenticated identity of the caller is authenticated by voice identification. (Specification, paragraphs 0035, 0053, 0094, 0145).

Claim 3 is directed to the method of claim 1 including a method for accessing the schedule at a destination device available to the callee. (Specification, paragraphs 0090, 0091, 0182, Figure 9, element 57).

Claim 4 is directed to the method of claim 1 including a method for attempting a communication link by allowing the call to ring through to a destination device available to the callee. (Specification, paragraphs 0040, 0098, 0158, 0159, Figures 2, 3, element 44, Figure 9, element 57).

Claim 5 is directed to the method of claim 1 including a method for regulating the call by blocking the caller from accessing a destination device available to the callee. (Specification, paragraphs 0142, 0158, Figure 2, Figure 3, element 44, Figure 5, element 86, Figure 9, element 57).



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Claim 6 is directed to the method of claim 1 including a method for regulating the call by transferring the call to a voice mail service. (Specification, paragraphs 0041, 0159, Figure 5, element 86).

Claim 7 is directed to the method of claim 1 including a method for the telephone service provider to regulate the call by controlling output of a message to a caller indicating an available time for the caller to reach the callee, wherein the caller is prompted with a selectable option to request an appointment during the available time be added to the schedule for the callee, and responsive to receiving input from the caller of the selectable option, adding the appointment during the available time to the schedule for said callee, wherein the appointment restricts the callee to only receive a call from said caller during the available time. (Specification, paragraphs 0041, 0142).

Claims 8, 9, 10, 11, 12, 13, and 14 are directed to a communication system (Figure 1, element 10) with means for performing the elements described in claims 1, 2, 3, 4, 5, 6, and 7, respectively. The communication system of claims 8, 9, 10, 11, 12, 13, and 14 enables a caller to place a call (Figure 1, elements 8a-8n) intended for the callee wherein the communication system comprises at least one telephone service provider within a trusted telephone network (Specification, paragraphs 0046, 0047, 0063, 0083, Figure 1, element 10, Figure 2, elements 42 and 46), where the communication system within PSTN 10, accessing a schedule regulation service 57, provides the means for performing the elements described in claims 1, 2, 3, 4, 5, 6, and 7. (Specification, paragraphs 0046, 0047, 0180-0182).

Claims 15, 16, 17, 18, 19, and 20 are directed to a computer program product for performing the steps described in claims 1, 3, 4, 5, 6, and 7, respectively. In particular, the specification describes a recording medium with means recorded on the recording medium for performing the elements of claims 15, 16, 17, 18, 19, and 20 in the Specification, paragraphs 0194. Examples of a recording medium include:

“recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMS, DVD-ROMs, and transmission-type media, such as digital and analog communications links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions” (Specification, paragraph 0194).

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In addition, the recording medium may “take the form of coded formats that are decoded for actual use in a particular data processing system” (Specification, paragraph 0194). In one example, schedule regulation service 57 of Figure 9 controls the regulation of calls to a callee and includes computer resources, such as a processor, memory, system software, application software, and network software, where the memory, for example, may be a recording medium recorded with the means described in claims 29 and 30 (Specification, paragraph 0180).

Claim 21 is directed to a method for regulating access to a destination device. (Specification, paragraphs 0090, 0155). A telephone service provider within a trusted telephone network detects an authenticated identity of a caller placing a call to a destination device. (Specification, paragraphs 0035, 0052, 0094-0097, 0145, 0155, Figure 5, element 8). The telephone service provider only attempts a communication link between the caller and the destination device if the authenticated identity of the caller is allowed access to the destination device according to a schedule associated with the destination device (Specification, paragraphs 0133, 0156, 0158, 0159, 0163, 0174, Figure 5, element 86), wherein the schedule is accessible from at least one schedule storage service located within a packet-switching network outside the trusted telephone network and communicative with the telephone service provider via a secured gateway. (Specification, paragraphs 0034, 0051, 0060, 0062, 0074, 0132, 0158, 0174, Figure 2, elements 22 and 46, Figure 5, elements 82 and 86, Figure 9, element 57).

Claim 22 is directed to a method for time based regulation of a call. (Specification, paragraphs 0033, 0155). A context of a call is detected, wherein the context comprises an identity of a caller and an anticipated call time. (Specification, paragraphs 0033, 0035, 0100, 0101, 0145, 0162, Figure 6, element 90, Figure 8, element 56). A communication link is only attempted between the caller and the destination device if a time scheduled for the destination device is sufficient for the anticipated call time and the caller is allowed access to an intended callee at the destination device during the time scheduled. (Specification, paragraphs 0133, 0156, 0158, 0163, 0174, Figure 6, elements 57, 92, 96, Figure 9, element 57).

Claim 23 is directed to a method for time based regulation of a destination device. (Specification, paragraph 0090). A context for a call is detected, wherein the context

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comprises an identity of a caller and an anticipated call time. (Specification, paragraphs 0033, 0035, 0155, 0162, Figure 5, element 80, Figure 6, element 90, Figure 8, element 56). A schedule for the destination device is filtered according to the context for the call to determine a selection of relevant scheduled events. (Specification, paragraphs 0033, 0037, 0090, 0100, 0104, 0133, 0156, 0163, Figure 5, element 82, Figure 6, element 92, Figure 8, element 56). The caller is prompted with a next available time for access to the destination device according to the selection of relevant scheduled events. (Specification, paragraph 0164, Figure 5, element 86, Figure 6, element 96, Figure 9, element 136).

Claim 24 is directed to the method of claim 23 wherein the schedule comprises at least one from among an allowed caller event, a rated event, and a next available time event. (Specification, paragraphs 0101, 0103, 0135, 0136, Figure 5, elements 82 and 84).

Claim 25 is directed to the method of claim 23 including a method for scheduling the caller in the schedule for the next available time. (Specification, paragraph 0142).

Claims 26, 27, and 28 are directed to a system for time based regulation of a destination device with means for performing the elements described in claims 22, 23, and 24, respectively. In particular, Figure 9 illustrates a schedule regulation service 57 for controlling time based regulation of a destination device which provides the means for performing the elements described in claims 23, 24, and 25. (Specification, paragraphs 0180-0182, 0191-0193, Figure 9, element 57, Figure 11).

Claims 29 and 30 are directed to a computer program product for performing the steps described in claims 23 and 25, respectively. In particular, the specification describes a recording medium with means recorded on the recording medium for performing the elements of claims 29 and 30 in the Specification, paragraphs 0194.

Examples of a recording medium include:

“recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMs, DVD-ROMs, and transmission-type media, such as digital and analog communications links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions” (Specification, paragraph 0194).

In addition, the recording medium may “take the form of coded formats that are decoded for actual use in a particular data processing system” (Specification, paragraph 0194). In one example, schedule regulation service 57 of Figure 9 controls the regulation of calls to

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a destination devices and includes computer resources, such as a processor, memory, system software, application software, and network software, where the memory, for example, may be a recording medium recorded with the means described in claims 29 and 30 (Specification, paragraph 0180).

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**VI. Grounds of Rejection to be Reviewed on Appeal**

1. Claims 1, 3-6, 8, 10-13, 15-19, and 21 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008).

2. Claims 2 and 9 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008) and further in view of Argade (US Patent 5,651,055).

3. Claims 7, 14, and 20 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008) and further in view of Carpenter (2002/0154752) and/or in view of Levine (US Patent 5,289,531).

4. Claims 24-30 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Carpenter (2002/0154752).

5. Claims 22 and 23 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Tatchell et al. (US Patent 6,160,877).

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## **VII. Argument**

### **1. 35 U.S.C. 103(a), Alleged Obviousness, Claims 1, 3-6, 8, 10-13, 15-19, and 21**

The Final Office Action rejects claims 1, 3-6, 8, 10-13, 15-19, and 21 under U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008). [Final Office Action, dated February 13, 2006, p. 2] The rejection is respectfully traversed.

Independent method claim 1, which is representative of independent system claim 8, independent computer program product claim 15, and independent method claim 21 with regard to similarly recited rejection, reads as follows:

1. A method for regulating access to a callee at a communication device accessible to said callee, comprising:
  - detecting, at a telephone service provider for a callee within a trusted telephone network, a call initiated by a caller and intended for said callee;
  - detecting, at said telephone service provider, an authenticated identity of said caller placing said call to said callee; and
  - only attempting, by said telephone service provider, a communication link between said caller and said callee if said authenticated identity of said caller is allowed access to said callee according to a schedule associated with an identity of said callee, wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway.

In the rejection of claims 1, 8, 15, and 21 the Examiner states:

As to claims 1, 8, 15, and 21 Tatchell et al. teaches a method and associated system for detecting the identity of a caller placing a call to a callee via Calling Line ID (CLID) or name, reading on the claimed detecting an authenticated identity. (Abstract, Col. 3, lines 25-44, Col. 4, lines 6-12) Tatchell et al. also teaches only attempting to connect the caller to the callee if the identity of the caller is allowed to access the callee according to the caller's scheduler (Abstract, Fig. 5b, Col. 3, lines 33-44, Col. 10, lines 40-43, Col. 18, line 23-col. 20, line 13, Col. 21, lines 9-18). Note that there will always be a destination device such as a telephone unit associated with the intended callee or else the callee would be unreachable.

Note that because Tatchell et al. allows for differential call treatment depending on who the caller may be, Tatchell et al. not only uses CLID to compare callers to data associated with callers which is

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utilized as discussed above, but also, at least indirectly is used to authenticate. If for example, only calls from MOM are to be allowed, then there is a clear authentication aspect related to the comparison of incoming CLID information to a callee's schedule and stored data. (Abstract)

Moreover, Tatchell et al. as discussed above teaches a call screening system and more importantly, using voice recognition to allow a subscriber or callee to program his/her call disposition, call list(s), as the method of receiving callee name information, etc. (Col. 4, lines 6-13, col. 9, lines 29-43, col. 11, line 49 – col. 12, line 14, col. 16, lines 52-67, col. 17, lines 22-32 of Tatchell et al.) Therefore, Tatchell et al. would already have the requisite functionality to use voice recognition to identify and/or authenticate a caller and because Tatchell et al. teaches authenticating the subscriber so that only a subscriber will have secure access to his/her personal information, authenticating a caller would merely be an obvious design choice geared to making the system more secure on both ends of a call. Such is notoriously old and well known in the art.

What Tatchell et al. does not teach is the use of packet-switched system for interacting with the scheduling aspect.

Instead, Tatchell et al. teaches using voice recognition over standard telephony lines.

However, Dulman teaches that many times, provisioning telephony services such as those using a scheduling, using a telephone is difficult and would be much easier to accomplish provisioning using a computer or similar device via a packet-switched network and secured gateways or servers. (Abstract, Figs. 2-5C, Col. 3, line 65-col. 4, line 17; col. 4, line 20-col. 6, line 59; col. 7, lines 4-12; col. 10, line 11-col. 21, line 47 of Dulman).

It would have been obvious to utilize packet-switched networks for such provisioning in Tatchell et al. because Dulman, as discussed above, specifically points out that purely telephony-based provisioning is inconvenient, and addresses it. Moreover, Tatchell et al. contemplates some interaction with data or packets in that it can recognize and properly route data calls as opposed to voice calls. (Col. 4, lines 31-35, col. 21, lines 27-29 of Tatchell et al.). Therefore, introducing a packet-switched aspect to Tatchell et al. would not completely teach away from Tatchell et al.

Finally, provisioning a schedule for example, as seen in Tatchell et al. and Dulman, is known in the art to be accomplished by various means and because such means are already known, substituting one for another is merely a design choice that would have been obvious to one of ordinary skill in the art at the time the invention was made. [Final Office Action, pp. 2-5]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the

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burden of proving a prima facie case of obviousness as to 1, 8, 15, and 21 for the following reasons.

**Tatchell et al. and Dulman, separately or in combination, do not teach or suggest all of the claim limitations of claims 1, 8, 15, and 21**

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Appellants respectfully note that the Examiner does not show, nor do the references teach or suggest, separately or in combination, each of the elements of claims 1, 8, 15, and 21.

Appellants respectfully assert that Tatchell et al. and Dulman, separately or in combination, do not teach or suggest detecting, at said telephone service provider, an authenticated identity of said caller placing said call to said callee because neither Tatchell et al. nor Dulman, separately or in combination, teaches or suggests detecting an authenticated identity of said caller. In the rejection, the Examiner states three different grounds of rejection reading on the element of detecting an authenticated identity of said caller. Appellants respectfully assert that each of the three grounds of rejection are flawed and therefore the rejection does not provide a prima facie case of obviousness as to the element of detecting an authenticated identity of said caller.

First, the rejection includes an assertion that Tatchell's system of detecting a Calling Line ID (CLID) as reading on the claimed detecting an authenticated identity of a caller. [Final Office Action, pp. 2-3] Tatchell's system of detecting a CLID for an incoming call, however, only describes detecting a phone number from which a call originates. *Tatchell*, Abstract, Col. 3, lines 25-44, Col. 4, lines 6-12, Figure 1, Figure 2a, Figures 5b. Appellants respectfully assert that the phone number for the line from which a call originates does not provide an identity of the actual caller, but only a telephone



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number, from which any number of persons could place a call. In contrast, claim 1 teaches detecting an identity of a caller, clearly teaching that the actual identity of the caller, and not merely a phone line used by the caller, is detected. Because detecting a CLID does not teach detecting an identity of a caller, Tatchell does not teach or suggest detecting an authenticated identity of a caller.

Second, as to the element of detecting an authenticated identity of a caller, the rejection includes an assertion:

“that because Tatchell et al. allows for differential call treatment depending on who the caller may be, Tatchell et al. not only uses CLID to compare callers to data associated with callers which is utilized as discussed above, but also, at least indirectly is used to authenticate. If for example, only calls from MOM are to be allowed, then there is a clear authentication aspect related to the comparison of incoming CLID information to a callee’s schedule and stored data. (Abstract)” [Final Office Action, p. 3]

In particular, Tatchell describes that a subscriber to the service of Tatchell may set up a contact database, in which the subscriber preassigns a name to one or more CLID. *Tatchell*, Col. 4, lines 6-13, Figure 5b. For an incoming call, in Tatchell’s system if the CLID matches a CLID in the database, then the prerecorded name and other settings assigned to the CLID are accessed. *Tatchell*, Abstract, col. 4, lines 6-13.

As to the second assertion, Appellants respectfully assert that identifying whether an incoming CLID matches a CLID in a subscriber’s database, as described by Tatchell does not teach or suggest detecting an identity of a caller. Further, Appellants respectfully assert that while Tatchell describes that a subscriber may prerecord a “name” in association with a particular CLID in the database, accessing the “name” prerecorded by the subscriber in association with a CLID, merely describes detecting another identifier, but does not teach or suggest detecting an identity of the caller. Because matching a CLID for an incoming call to a CLID in a database and accessing the information preassigned by a subscriber to the CLID does not teach detecting an identity of a caller, Tatchell does not teach or suggest detecting an authenticated identity of a caller.

In addition, as to the second assertion, Appellants respectfully assert that regardless of whether the assertion that Tatchell’s system of detecting a CLID describes

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detecting a caller identity is correct, Appellants respectfully assert that the Examiner's further assertion that Tatchell's system for comparing a CLID of an incoming call with a database of CLIDs and the subscriber's schedule reads on authentication is flawed. Appellants respectfully assert that authentication requires a step of verification and that Tatchell's system of comparing an incoming CLID with a database of CLIDs and accessing information associated with the incoming CLID from the database does not teach verifying, to authenticate, an identity of a caller.

Appellants note that during patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and "customary" meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that in examining claims 1, 8, 15, and 21 with the broadest reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach, it is clear that the term "authenticated" has a plain meaning that clearly shows that an "authenticated identity" requires some additional step to verify that an identity for a caller matches the identity of the actual caller on the line and that Tatchell's description of merely comparing a caller telephone number with a database of caller telephone numbers and accessing information associated with the caller telephone number in the database does not teach or suggest this additional step required for authentication.

In particular, the Free On-line Dictionary of Computing defines "authentication" as "The verification of the identity of a person or process. In a communication system, authentication verifies that messages really come from their stated source, like the signature on a (paper) letter." (The Free On-line Dictionary of Computing, 1993-2005,

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Denis Howe). Moreover, the specification of the present application supports a broad interpretation of “authenticated identity” as requiring an additional step of verifying, or authenticating, that an identity for a caller matches the identity of the actual caller on the line. (Specification, paragraphs 0035, 0036, 0052, 0071). In particular, paragraph 0036 describes multiple ways in which the caller must provide additional input to verify that the caller is who the caller says they are. (Specification, paragraph 0036 reads:

“[w]hile as described, authentication of a caller or callee identity is described with emphasis placed on voice authentication, other methods of caller and callee identity authentication may also be performed. Voice samples utilized for voice authentication are just one of multiple types of biometric sampling. For example, a caller or callee may locally provide an eye scan, fingerprint, and other biophysical identifiers that are transmitted within or outside a trusted network to authenticate the identity of the caller or callee. Alternatively, keypad entries, such as a pin code, account number, password, or other secure transaction key may be entered by a caller or callee and utilized to authenticate the identity of the caller or callee.”

Further, paragraph 0052 describes that “[b]y authenticating the actual identity of the person making the phone call and the person receiving the phone call, rather than the identification of a device from which a call is made and received, an enhanced specialization of services to subscribers may be performed.”

Therefore, in view of a common dictionary definition and the specification of the application, it is apparent that there is a plain meaning of “authenticated identity” requiring an actual verification of the identity of a caller, through the caller providing some additional information that verifies the caller is who the caller claims to be. Tatchell’s system of comparing a CLID of an incoming call with a database of CLID’s to access information that a subscriber associated with the CLID does not require any additional step of verification of an identity of a caller. Therefore, Tatchell’s system does not, even indirectly, teach or suggest detecting an authenticated identity of a caller.

Third, the rejection includes an assertion, as to the element of detecting an authenticated identity of a caller, that Tatchell describes:

“using voice recognition to allow a subscriber or callee to program his/her call disposition, call list(s), as the method of receiving callee name information, etc. (Col. 4, lines 6-13, col. 9, lines 29-43, col. 11, line 49 – col. 12, line 14, col. 16, lines 52-67, col. 17, lines 22-32 of Tatchell et al.)

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Therefore, Tatchell et al. would already have the requisite functionality to use voice recognition to identify and/or authenticate a caller and because Tatchell et al. teaches authenticating the subscriber so that only a subscriber will have secure access to his/her personal information, authenticating a caller would merely be an obvious design choice geared to making the system more secure on both ends of a call. Such is notoriously old and well known in the art.” [Final Office Action, pp. 3-4]

Appellants respectfully assert that this ground of rejection is flawed for multiple reasons.

As to the Examiner’s third assertion, Appellants respectfully assert that “voice recognition” does not teach “voice authentication”. Further, because claim 1 does not limit the authentication to voice authentication, Appellants respectfully assert that “voice recognition” does not teach “authentication” or provide the “requisite functionality” that would be required for performing authentication. As previously noted, during patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the “ordinary” and “customary” meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that in examining claims 1, 8, 15, and 21 with the broadest reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach, it is clear that the term “authentication” has a plain meaning that clearly shows that an “authenticated identity” requires some additional step to verify that an identity for a caller matches the identity of the actual caller on the line and that Tatchell’s description of converting speech into text to trigger a command only describes a voice-based interface, as a substitute for a keyboard interface, for use by a caller or subscriber to select from options, and not a method for verifying an identity of a caller.

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Tatchell et al, col.11, lines 20-56 discloses (1) a speech recognition module as an alternative to keypad recognition technology (DTMF detector 36) for recognizing input from a telephone keypad to trigger a command; (2) a speech recognition module with a processor for converting the caller or subscriber's speech into a signal representation, comparing the signal representation with a database of words, and responsive to matching the signal representation with a particular word, triggering the command code associated with the word in the database. Thus, speech, or voice recognition technology is described by Tatchell et al. as a way for the caller to provide input to an interface through speech, rather than through the keypad. In addition, "voice recognition" is defined as "The capability of a computer to understand the spoken word for the purpose of receiving commands and data input from the speaker." (Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright 2002, p. 567) Thus, voice recognition technology converts a spoken word into text that is a command or data input from the speaker.

In contrast, "authentication" is not merely receiving commands or data input, but is defined as "In a multiuser or network operating system, the process by which a system validates a user's logon information." (Microsoft Computer Dictionary, 5<sup>th</sup> Edition, p. 42), which affirms the previously cited definition of "The verification of the identity of a person or process. In a communication system, authentication verifies that messages really come from their stated source, like the signature on a (paper) letter." (The Free On-line Dictionary of Computing, 1993-2005, Denis Howe). Thus, authentication, based on multiple dictionary definitions of the term and the specification of the present application, is distinguishable from, and not taught or suggested by voice recognition, because authentication is not merely converting a spoken word into text, but matching an input by a caller to validate or verify a caller's identity. In addition, Appellants respectfully assert that in view of Tatchell's own teachings and a dictionary definition, the "functionality" of a voice recognition system is one of an interface, through which a user may select commands through speech, rather than through entering selections on a keypad or keyboard; in contrast, authentication and the process of authentication is not an interface alternative, but an additional step of verifying identity information. Therefore, regardless of whether the Examiner's statement that "authentication" is notoriously well known is

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correct, a voice recognition system does not provide the requisite functionality alone for authenticating an identity of a caller.

**There is no suggestion or motivation to modify Tatchell et al. by Dulman**

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the reference. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991). The suggestion or motivation to modify Burg et al. by Fawcett et al. and Bruce et al. must come from the teachings the references, and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Appellants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989). Appellants respectfully assert that there is no motivation to modify Tatchell et al. by Dulman because the modification is merely a loose piecing together of references based on “hindsight” and not based in the teachings of the references.

In particular, Appellants respectfully assert that there is no suggestion or motivation to modify Tatchell et al. and Dulman to teach the element of wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway. The Examiner states, regarding the combination of Tatchell et al. and Dulman:

“It would have been obvious to utilize packet-switched networks for such provisioning in Tatchell et al. because Dulman, as discussed above, specifically points out that purely telephony-based provisioning is inconvenient, and addresses it. Moreover, Tatchell et al. contemplates some interaction with data or packets in that it can recognize and properly route data calls as opposed to voice calls. (Col. 4, lines 31-35, col. 21, lines 27-29 of Tatchell et al.). Therefore, introducing a packet-switched aspect to Tatchell et al. would not completely teach away from Tatchell et al.” [Final Office Action, p. 4]

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First, Appellants respectfully assert that Tatchell et al. does not contemplate interaction with a packet-switching network and therefore there is no suggestion or motivation for modifying Tatchell et al. by Dulman to teach wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway. Appellants respectfully assert that Tatchell et al., col. 4, lines 31-35 and col. 21, lines 27-29 only describe that if a call is a data call, referring to a fax call, the data can be routed to a server and stored there. Merely because a system can handle receipt of a “data call”, such as a fax, does not contemplate a modification to a system that is automatically enabled to interact with a packet-switching network or to access a schedule from a storage service from a packet-switching network. Appellants respectfully assert that mischaracterizing a call center enabled to receive and store a fax call to read on contemplation of an interaction with a packet-switching network indicates the attempt to modify references and piece references together based on “hindsight” and not based on the teachings in the references.

Second, Appellants respectfully assert that merely because Dulman describes a system in which an AIN system is connected to a packet-switching network does not suggestion or motivate modifying any telephone service to be connected to a packet-switching network. The Examiner proposes that merely because Dulman solves a problem of how to enable customer premises equipment to most efficiently create and modify AIN services by placing the AIN services on a TCP/IP network and enabling the customer premises equipment to access the AIN services via a telephone connection (Dulman, col. 3, line 65-col. 4, line 9, col. 4, lines 20-23, col. 5, lines 39-46), as a result, purely telephony-based provisioning in general is “inconvenient”. [Final Office Action, p. 4] Thus, the Examiner’s conclusion is that Dulman’s system for provisioning to solve a particular problem of connecting customer premises equipment to an AIN system, somehow suggests or motivates modification of any purely telephony-based provisioning system to implement a packet-switching network based service. [Final Office Action, p. 4] Respectfully, Appellants assert that this scope of interpretation of Dulman, as stated by the Examiner, is broader than is reasonable and is an attempt to enhance the

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applicability of Dulman in an effort to piece references together based on “hindsight” and not based on the teachings in the references.

In conclusion, Appellants respectfully assert that because Tatchell et al. by Dulman, separately or in combination, do not teach or suggest each of the elements of claims 1, 8, 15, and 21, and further there is no motivation or suggestion for modifying Tatchell et al. by Dulman to teach each of the elements of claims 1, 8, 15, and 21, a prima facie case of obviousness under 103(a) is not established for claims 1, 8, 15, and 21. Because a prima facie case of obviousness under 103(a) is not established for the claims 1, 8, 15, and 21, Appellants respectfully request allowance of claims 1, 8, 15, and 21.

In addition, because prima facie obviousness is not established for claims 1, 8, and 15, at least by virtue of their dependency on claims 1, 8, and 15, the teachings of Tatchell et al. and Dulman, separately or in combination, do not make the features of dependent claims 3-6, 10-13, and 16-19 obvious under 35 U.S.C. §103(a).

**2. 35 U.S.C. 103(a), Alleged Obviousness, Claims 2 and 9**

The Final Office Action rejects claims 2 and 9 under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008) and further in view of Argade (US Patent 5,651,055). [Final Office Action, p. 5] The rejection is respectfully traversed.

Dependent method claim 2, which is representative of dependent system claim 9 with regard to similarly recited subject matter and rejection, reads as follows:

2. The method for regulating access according to claim 1, wherein said authenticated identity of said caller is authenticated by voice identification.

First, Appellants respectfully assert that because prima facie obviousness is not established for claims 1 and 8, at least by virtue of their dependency on claims 1 and 8, the teachings of Tatchell et al. and Dulman, separately or in combination, do not make the features of dependent claims 2 and 9 obvious under 35 U.S.C. §103(a).



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Second, Appellants respectfully assert that there is no motivation or suggestion for modifying Tatchell et al. and Dulman by Argade et al. In rejecting claims 2 and 9, the rejection states:

“what Tatchell et al. does not teach is authenticating the caller by voice identification. However, biometric identification, especially voice, is notoriously old and well known in the telephony arts as taught by Argade. (Col. 1, lines 16-24 of Argade) It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used voice authentication in the invention of Tatchell et al. inasmuch as Argade teaches that voice authentication is one method of identifying a caller for a call screening system. Likewise, Tatchell et al. as discussed above teaches a call screening system, and more importantly, using voice recognition to allow a subscriber or callee to program his/her call disposition, call list(s), as the method of receiving callee name information, etc. (Col. 4, lines 6-13, col. 9, lines 29-43, col. 11, line 49-col. 12, lines 14, col. 16, lines 52-67, col. 17, lines 22-32 of Tatchell et al.). Therefore, Tatchell et al. would already have the requisite functionality to use voice recognition to identify and/or authenticate a caller. Moreover, Tatchell et al. merely teaches using another old and well-known alternative means of identification, i.e., CLID. Therefore substituting one known method of identification for another would be an obvious design choice or preference. [Office Action, pp. 5-6]

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the references. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991). In particular, the teaching, suggestion or motivation to combine or modify the teachings of the prior art to produce the claimed invention must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Appellants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989). Appellants respectfully assert that this ground of rejection is flawed and that prima facie obviousness is not established because “voice recognition” does not teach “voice

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authentication” and there is no suggestion or motivation for modifying a system that performs “voice recognition” to perform “voice authentication”.

Appellants previously asserted, with respect to claims 1 and 8, that Tatchell’s system of “voice recognition” does not teach the claimed “voice authentication” and that because claim 1 does not limit the authentication to voice authentication, Appellants asserted that “voice recognition” does not teach “authentication” or provide the “requisite functionality” that would be required for performing authentication. In the rejection of claims 2 and 9, the Examiner clearly states that Tatchell et al. does not teach authenticating the caller by voice identification. [Final Office Action, p. 5]

Appellants respectfully assert that in addition to Tatchell not teaching authenticating the caller by voice identification, there is no suggestion or motivation for modifying a user interface, provided through a voice recognition system, to perform an internal verification function of voice authentication. As previously noted, during patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the “ordinary” and “customary” meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that in examining claims 2 and 9 with the broadest reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach, it is clear that authentication by “voice identification” has a plain meaning that clearly shows that an “voice authentication” requires some additional step to verify the identity of a caller by matching the current caller’s voice with a sample of the caller’s voice and that Tatchell’s description of converting speech into text to trigger a command only describes a voice interface, as a substitute for a keyboard interface, for use by a

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caller or subscriber in selecting options, and not a method for verifying an identity of a caller.

Tatchell et al, col.11, lines 20-56 discloses (1) a speech recognition module as an alternative to keypad recognition technology (DTMF detector 36) for recognizing input from a telephone keypad to trigger a command; (2) a speech recognition module with a processor for converting the caller or subscriber's speech into a signal representation, comparing the signal representation with a database of words, and responsive to matching the signal representation with a particular word, triggering the command code associated with the word in the database. Thus, speech, or voice recognition technology is described as a way for the caller to provide input to an interface through speech, rather than through the keypad. In addition, "voice recognition" is defined as "The capability of a computer to understand the spoken word for the purpose of receiving commands and data input from the speaker." (Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright 2002, p. 567) Thus, voice recognition technology converts a spoken word into text that is a command or data input from the speaker.

In contrast, "authentication" is not merely receiving commands or data input, but is defined as "In a multiuser or network operating system, the process by which a system validates a user's logon information." (Microsoft Computer Dictionary, 5<sup>th</sup> Edition, p. 42), which affirms the previously cited definition of "The verification of the identity of a person or process. In a communication system, authentication verifies that messages really come from their stated source, like the signature on a (paper) letter." (The Free On-line Dictionary of Computing, 1993-2005, Denis Howe). Thus, authentication by voice identification, based on the multiple dictionary definitions of the term and the specification of the present application, requires actual verification of a voice, not just conversion of speech into text. In view of Tatchell's own teachings and a dictionary definition, the "functionality" of a voice recognition system is one of an interface, through which a user may select commands through speech, rather than through entering selections on a keypad or keyboard; in contrast, authentication by voice identification and the process of authentication is not an interface alternative, but an additional step of verifying identity information. Therefore, regardless of whether either of the Examiner's statements are correct, that (1) Argade describes "voice authentication or (2)

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“authentication” is notoriously well known, there is not a suggestion or motivation for modifying a voice recognition system, used to provide a user with an interface for speaking voice commands, to instead perform voice authentication to verify the identity of a caller.

In conclusion, a prima facie case of obviousness under 103(a) is not established for claims 2 and 9 because there is no suggestion or motivation to modify Tatchell et al. and Dulman by Argade et al. to teach all the elements of claims 2 and 9. Because a prima facie case of obviousness under 103(a) is not established for claims 2 and 9, Appellants respectfully request allowance of claims 2 and 9.

**3. 35 U.S.C. 103(a), Alleged Obviousness, Claims 7, 14, and 20**

The Final Office Action rejects claims 7, 14, and 20 under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Dulman (US Patent 5,915,008) and further in view of Carpenter (2002/0154752) and/or in view of Levine (US Patent 5,289,531). [Final Office Action, p. 6] The rejection is respectfully traversed. Appellants respectfully assert that because prima facie obviousness is not established for claims 1 and 8, at least by virtue of their dependency on claims 1 and 8, the teachings of Tatchell et al. and Dulman, further in view of Carpenter or Levine, separately or in combination, do not make the features of dependent claims 7, 14, and 20 obvious under 35 U.S.C. §103(a).

**4. 35 U.S.C. 103(a), Alleged Obviousness, Claims 24-30**

The Final Office Action rejects claims 24-30 under 35 U.S.C. §103(a) as being allegedly unpatentable over Tatchell et al. (US Patent 6,160,877) in view of Carpenter (2002/0154752). [Office Action, p. 9] The rejection is respectfully traversed.

First, with respect to claims 24 and 25, these claims are dependent upon claim 23, which is rejected under 102(b), as anticipated by Tatchell et al. Appellants respectfully assert, however, in the discussion of claim 23 following this section, that claim 23 is not anticipated by Tatchell et al. under 35 U.S.C. §102(b) and therefore dependent claims 24 and 25 are not obvious under Tatchell et al. in view of Carpenter.

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Second, with respect to claims 26 and 29, independent claim 26, which is representative of independent claim 29, reads as follows:

26. A system for time based regulation of a destination device, comprising:
- means for detecting a context for a call comprising an identity of a caller and an anticipated call time;
  - means for filtering a schedule for a destination device according to said context for said call to determine a selection of relevant scheduled events;
  - means for prompting said caller with a next available time for access to said destination device according to said selection of relevant scheduled events.

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to claims 26 and 29 for the following reasons.

**Tatchell et al. and Carpenter, separately or in combination, do not teach or suggest all of the claim limitations of claims 26 and 29**

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Appellants respectfully note that the Examiner does not show, nor do the references teach or suggest, separately or in combination, each of the elements of claims 26 and 29.

First, Appellants respectfully assert that Tatchell et al. in view of Carpenter does not teach means for detecting a context comprising an anticipated call time or means for filtering a schedule for a destination device according to the anticipated call time to determine a selection of relevant scheduled events. In particular, the Examiner states as to claims 26 and 29, that Tatchell et al. has been discussed “above” and that what

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Tatchell et al. does not teach is “outputting a message indicating an available time to reach the callee, requesting an appointment time, and being added to a schedule for the callee.” [Final Office Action, p. 9] Appellants note that the elements of “requesting an appointment time” and “being added to a schedule for the callee” are not elements of claims of claims 26 and 29, but that claims 28 and 30 teach “means for scheduling said caller in said schedule for said next available time.” Regardless, Applicants respectfully assert that Tatchell does not teach, nor does the Examiner point to any teaching of means for detecting a context comprising an anticipated call time or means for filtering a schedule for a destination device according to the anticipated call time to determine a selection of relevant scheduled events. Therefore, because the references do not teach at least one element of amended claims 26 and 29, the claims are not obvious under Tatchell in view of Carpenter under 35 U.S.C. 103(a) and therefore claims 26 and 29 should be allowed.

Second, in the rejection, the Examiner asserts that “Tatchell teaches that a callee can modify and listen to his/her schedule and preferences, presenting a message to the caller regarding available times would simply mean presenting some aspects or instances of the callee’s schedule to the caller instead of only the callee.” [Final Office Action, pp. 9-10] Appellants respectfully assert, however, that claims 26 and 29 do not merely teach presenting some aspect of the callee’s schedule to the caller, but describe determining a context for the call, filtering the schedule according to the context, and prompting the caller with a next available time based on the relevant scheduled events. Merely because the Examiner asserts that Tatchell could be modified so that a callee may access the callee’s schedule does not teach determining a next available time for the caller call the callee, from the callee’s schedule, and prompting the caller with that next available time. In contrast, when claims 26 and 29 are viewed as a whole, the claims teach determining a next available time for the caller (by detecting a context of a call including the caller identity and the anticipated call time and filtering a schedule for the callee to detect relevant schedule events related to the context) and prompting the caller with the next available call time. Therefore, because Tatchell et al. and Carpenter, separately or in combination, do not teach or suggest each and every element of claims 26 and 29, prima facie obviousness is not established and claims 26 and 29 should be allowed.

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In addition, because prima facie obviousness is not established for claims 26 and 29, at least by virtue of their dependency on claims 26 and 29, the teachings of Tatchell et al. and Carpenter, separately or in combination, do not make the features of dependent claims 27, 28, and 30 obvious under 35 U.S.C. §103(a).

**5. 35 U.S.C. 102(b), Alleged Anticipation, Claims 22, 23**

The Final Office Action rejects claims 22 and 23 under 35 U.S.C. §102(b) as being allegedly anticipated by Tatchell et al. (US Patent 6,160,877). [Office Action, p. 11] “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Furthermore the reference must be an enabling disclosure of each and every element as set forth in the claim. *In re Hoeckma*, 158 USPQ 596, 600 (CCPA 1968); *In re LeGrive*, 133 USPQ 365, 372 (CCPA 1962). The rejection is respectfully traversed. Because Tatchell does not teach each and every element of claims 22 and 23 or enables each and every element of these claims, these claims are not anticipated, the rejection should be withdrawn, and the claims should be allowed.

Claims 22 reads as follows:

22. A method for time based regulation comprising:  
detecting a context for a call comprising an identity of a caller and an anticipated call time; and  
only attempting a communication link between said caller and a destination device if a time scheduled for said destination device is sufficient for said anticipated call time and said caller is allowed access to an intended callee at said destination device during said time scheduled.

The Examiner rejects claim 22 in view of the rejection of claim 1. [Office Action, p. 12] In addition, the Examiner states:

Tatchell et al. also teaches grouping certain potential callers according to certain categories, such as calls from the hockey team. A call determined to be from one of a person on the hockey team will likely be about hockey or the hockey team, thus reading on the claimed context. Even if the call were about something else, the categorization would be enough to read on the context as well. [Final Office Action, pp. 11-12]

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Appellants respectfully assert that Tatchell et al. does not anticipate claims 22 because Tatchell et al. does not teach or enable the elements of detecting an anticipated call time and if a time scheduled for said destination device is sufficient for said anticipated call time and said caller is allowed access to an intended callee at said destination device during said time scheduled. Appellants respectfully assert that neither the statement made by the Examiner as to what Tatchell et al. describes or the discussion of Tatchell et al. with respect to claim 1 teach or enable either of these elements.

In addition with respect to the Examiner's assertion of what Tatchell teaches, Appellants note that the Examiner seems to state that a grouping a caller in a category "category" reads on the claimed element of detecting a context for a call. [Final Office Action, p. 12] Appellants respectfully assert that there is no indication made by the Examiner as to how grouping a caller according to category reads on detecting a context for a call comprising an anticipated call time or regulating the communication link based on if a time scheduled for the destination device is sufficient for the anticipated call time. Appellants respectfully assert, however, that claim 22 viewed as a whole teaches: (1) context comprises the identity of a caller and an anticipated call time; and (2) the communication link is regulated based on whether there is sufficient time scheduled for access by the caller to the destination device for the anticipated call time duration. Neither the rejection of claim 1 or the Examiner's rejection of claim 22 teach detecting a context comprising an anticipated call time and then regulating the communication link based on whether there is sufficient time scheduled for access by the caller to the destination device for the anticipated call time duration.

Therefore, because Tatchell et al. does not teach and enable each and every element of claim 22, Tatchell et al. does not anticipate claim 22 and claim 22 should be allowed.

Claim 23 currently reads:

23. (Original) A method for time based regulation of a destination device, comprising:  
detecting a context for a call comprising an identity of a caller and an anticipated call time;



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filtering a schedule for a destination device according to said context for said call to determine a selection of relevant scheduled events; and prompting said caller with a next available time for access to said destination device according to said selection of relevant scheduled events.

The Examiner rejects claim 23 in view of the rejections of claims 1 and 22 and further states:

Tatchell et al. teaches that calls may be prioritized, wherein such prioritization reads on the claimed scheduled event. (Col. 19, lines 12-15) Note that on pages 8-9 of applicant's specification, a priority level may indicate a scheduled event. Also note that as already discussed above, Tatchell et al. teaches the use of schedules in addition to and in conjunction with desired call dispositions and preferences regarding the routing of calls. Hence, it is inherent that a schedule would be "filtered." [Office Action, p. 12]

First, Appellants respectfully assert that Tatchell does not teach, nor does the Examiner point to any teaching in the rejection of claim 23 or the rejection in claims 1 and 22 of detecting a context comprising an anticipated call time, filtering a schedule for a destination device according to the anticipated call time to determine a selection of relevant scheduled events, or prompting the caller with a next available time for access to the destination device according to the selection of relevant scheduled events. Therefore, because Tatchell does not teach at least one element of claim 23, the claim is not anticipated and should be allowed.

Further, in particular, with reference to the rejection of claims 7, 14, and 20, which include the element of "regulating said call by controlling output of a message to a caller indicating an available time for said caller to reach said callee, wherein said caller is prompted with a selectable option to request an appointment during said available time be added to said schedule for said callee", the Examiner specification states that Tatchell and Dulman do not teach "outputting a message indicating an available time to reach the callee" [Office Action, p. 6] The element of "outputting a message indicating an available time to reach the callee" in claims 7, 14, and 20, is similar to the claimed element of prompting the caller with a next available time for access to the destination device according to the

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selection of relevant scheduled events in claim 23. Therefore, in view of the Examiner's statement as to the lack of teaching in Tatchell et al. in the rejection of claims 7, 14, and 20, and the fact that Tatchell does not determine or prompt the caller with a next available time for access to the destination device, Tatchell et al. does not teach or enable the claimed element of prompting the caller with a next available time for access to the destination device according to the selection of relevant scheduled events.

Therefore, because Tatchell et al. does not teach and enable each and every element of claim 23, Tatchell et al. does not anticipate claim 23 and claim 23 should be allowed.


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**CONCLUSION**

It is therefore respectfully requested that the Examiner's rejection of claims 1-30 under 35 USC 103(a) be reversed and the claims allowed.

Please charge the fee of \$500.00 for submission of an Appeal Brief under 37 CFR 41.20(b)(2) to IBM Corporation Deposit Account No. 09-0447. No additional filing fee is believed to be necessary; however, in the event that any additional fee is required, please charge it to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,



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Amy J. Patullo  
Attorney for Appellants  
Reg. No 46,983  
P.O. Box 161327  
Austin, Texas 78716  
vox (512) 402-9820  
fax (512) 306-0417

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### **VIII. Claims Appendix**

The Claims involved in the Appeal are as follows:

1. A method for regulating access to a callee at a communication device accessible to said callee, comprising:

detecting, at a telephone service provider for a callee within a trusted telephone network, a call initiated by a caller and intended for said callee;

detecting, at said telephone service provider, an authenticated identity of said caller placing said call to said callee; and

only attempting, by said telephone service provider, a communication link between said caller and said callee if said authenticated identity of said caller is allowed access to said callee according to a schedule associated with an identity of said callee, wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway.

2. The method for regulating access according to claim 1, wherein said authenticated identity of said caller is authenticated by voice identification.

3. The method for regulating access according to claim 1, further comprising:

accessing said schedule at a destination device available to said callee.

4. The method for regulating access according to claim 1, wherein attempting a communication link further comprises:

allowing said call to ring through to a destination device available to said callee.

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5. The method for regulating access according to claim 1, further comprising:

regulating said call by blocking said caller from accessing a destination device available to said callee.

6. The method for regulating access according to claim 1, further comprising:

regulating said call by transferring said call to a voice mail service.

7. The method for regulating access according to claim 1, further comprising:

regulating said call by controlling output of a message to a caller indicating an available time for said caller to reach said callee, wherein said caller is prompted with a selectable option to request an appointment during said available time be added to said schedule for said callee; and

responsive to receiving input from said caller of said selectable option, adding said appointment during said available time to said schedule for said callee, wherein said appointment restricts said callee to only receive a call from said caller during said available time.

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8. A system for regulating access to a callee comprising:

a communication system for enabling a caller to place a call intended for said callee, wherein said communication system comprises at least one telephone service provider within a trusted telephone network;

said communication system further comprising:

means for detecting an authenticated identity of said caller placing said call to said callee; and

means for only attempting a communication link via said communication system between said caller and said callee if said authenticated identity of said caller is allowed access to said callee according to a schedule associated with an identity of said callee, wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said communication system via a secured gateway.

9. The system for regulating access according to claim 8, wherein said authenticated identity of said caller is authenticated by voice identification.

10. The system for regulating access according to claim 8, further comprising:

means for accessing said schedule at a destination device available to said callee.

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11. The system for regulating access according to claim 8, wherein attempting a communication link further comprises:

means for allowing said call to ring through to a destination device available to said callee.

12. The system for regulating access according to claim 8, further comprising:

means for regulating said call by blocking said caller from accessing a destination device available to said callee.

13. The system for regulating access according to claim 8, further comprising:

means for regulating said call by transferring said call to a voice mail service.

14. The system for regulating access according to claim 8, further comprising:

means for regulating said call by controlling output of a message to a caller indicating an available time for said caller to reach said callee, wherein said caller is prompted with a selectable option to request an appointment during said available time be added to said schedule for said callee; and

means, responsive to receiving input from said caller of said selectable option, for adding said appointment during said available time to said schedule for said callee, wherein said appointment restricts said callee to only receive a call from said caller during said available time.

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15. A program for regulating access to a callee comprising:

a recording medium;

means, recorded on said recording medium, for detecting at at least one telephone service provider within a trusted telephone network, a call initiated by a caller and intended for said callee;

means, recorded on said recording medium, for detecting an authenticated identity of said caller placing said call to said callee; and

means, recorded on said recording medium, for only attempting a communication link through said telephone service provider between said caller and said callee if said authenticated identity of said caller is allowed access to said callee according to a schedule associated with an identity of said callee, wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway.

16. The program for regulating access according to claim 15, further comprising:

means, recorded on said recording medium, for accessing said schedule at a destination device available to said callee.



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17. The program for regulating access according to claim 15, wherein attempting a communication link further comprises:

means, recorded on said recording medium, for allowing said call to ring through to a destination device available to said callee.

18. The program for regulating access according to claim 15, further comprising:

means, recorded on said recording medium, for regulating said call by blocking said caller from accessing a destination device available to said callee.

19. The program for regulating access according to claim 15, further comprising:

means, recorded on said recording medium, for regulating said call by transferring said call to a voice mail service.

20. The program for regulating access according to claim 15, further comprising:

means, recorded on said recording medium, for regulating said call by controlling output of a message to a caller indicating an available time for said caller to reach said callee, wherein said caller is prompted with a selectable option to request an appointment during said available time be added to said schedule for said callee; and

means, recorded on said recording medium, responsive to receiving input from said caller of said selectable option, for adding said appointment during said available time to said schedule for said callee, wherein said appointment restricts said callee to only receive a call from said caller during said available time.

21. A method for regulating access to a destination device comprising:

detecting, at a telephone service provider within a trusted telephone network, an authenticated identity of a caller placing a call to a destination device; and

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only attempting, by said telephone service provider, a communication link between said caller and said destination device if said authenticated identity of said caller is allowed access to said destination device according to a schedule associated with said destination device, wherein said schedule is accessible from at least one schedule storage service located within a packet-switching network outside said trusted telephone network and communicative with said telephone service provider via a secured gateway.

22. A method for time based regulation comprising:

detecting a context for a call comprising an identity of a caller and an anticipated call time; and

only attempting a communication link between said caller and a destination device if a time scheduled for said destination device is sufficient for said anticipated call time and said caller is allowed access to an intended callee at said destination device during said time scheduled.

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23. A method for time based regulation of a destination device, comprising:

detecting a context for a call comprising an identity of a caller and an anticipated call time;

filtering a schedule for a destination device according to said context for said call to determine a selection of relevant scheduled events;

prompting said caller with a next available time for access to said destination device according to said selection of relevant scheduled events.

24. The method for time based regulation according to claim 23, wherein said schedule comprises at least one from among an allowed caller event, a rated event, and a next available time event.

25. The method for time based regulation according to claim 23, further comprising:

scheduling said caller in said schedule for said next available time.

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26. A system for time based regulation of a destination device, comprising:

means for detecting a context for a call comprising an identity of a caller and an anticipated call time;

means for filtering a schedule for a destination device according to said context for said call to determine a selection of relevant scheduled events;

means for prompting said caller with a next available time for access to said destination device according to said selection of relevant scheduled events.

27. The system for time based regulation according to claim 26, wherein said schedule comprises at least one from among an allowed caller event, a rated event, and a next available time event.

28. The system for time based regulation according to claim 26, further comprising:

means for scheduling said caller in said schedule for said next available time.

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29. A computer program product for time based regulation of a destination device, comprising:

a recording medium;

means, recorded on said recording medium, for detecting a context for a call comprising an identity of a caller and an anticipated call time;

means, recorded on said recording medium, for filtering a schedule for a destination device according to said context for said call to determine a selection of relevant scheduled events;

means, recorded on said recording medium, for prompting said caller with a next available time for access to said destination device according to said selection of relevant scheduled events.

30. The computer program product for time based regulation according to claim 29, further comprising:

means, recorded on said recording medium, for scheduling said caller in said schedule for said next available time.

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**IX. Evidence Appendix**

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner that is relied upon by Appellants in the appeal.

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**X. Related Proceedings Appendix**

There are no decisions rendered by a court or the Board in any related appeals.